

**UNITED STATES DISTRICT COURT
DISTRICT OF NEW MEXICO**

GARY MARTINEZ,

Plaintiff,

v.

Civ. No. 17-115 GJF

NANCY BERRYHILL, *Acting
Commissioner of the Social Security
Administration,*

Defendant.

ORDER GRANTING ATTORNEY FEES

THIS MATTER is before the Court on the Plaintiff's "Unopposed Motion for Equal Access to Justice Award of Attorney's Fees and Costs" ("Motion") filed on September 14, 2017 [ECF No. 24]. The parties have stipulated to Equal Access to Justice Act ("EAJA") fees in the amount of \$6,720.00. The parties have also stipulated that the EAJA fees be awarded directly to Plaintiff's counsel, Helen Laura Lopez. The Court, having reviewed the Motion, the record, and noting the concurrence of the parties, finds the Motion to be well taken and will hereby **GRANT** it.

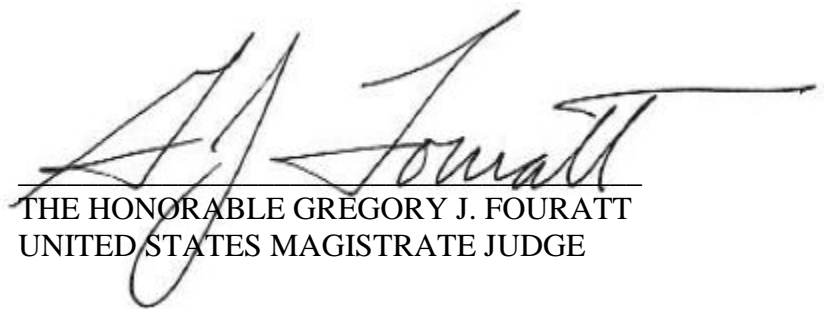
IT IS THEREFORE ORDERED that Plaintiff's counsel, Helen Laura Lopez, is awarded \$6,720.00 in attorney fees pursuant to the Equal Access to Justice Act, 28 U.S.C. § 2412(d). Ms. Lopez is also awarded \$413.61 in costs, pursuant to 28 U.S.C. § 1920, which shall be paid from the Judgment Fund.

Payment of this amount shall constitute a complete release from and bar to any and all claims Plaintiff may have relating to EAJA fees in connection with this action. The parties further agree that the EAJA award is without prejudice to Plaintiff's attorney's right to seek

attorney fees pursuant to 42 U.S.C. § 406(b), subject to the offset provisions of the EAJA. *See* 28 U.S.C. § 2412(c)(1) (2012).

IT IS FURTHER ORDERED that if Plaintiff's counsel receives attorney fees under both the EAJA and 42 U.S.C. § 406(b) of the Social Security Act, Plaintiff's counsel shall refund the smaller award to Plaintiff pursuant to *Weakley v. Bowen*, 803 F.2d 575, 580 (10th Cir. 1986).

IT IS SO ORDERED.



THE HONORABLE GREGORY J. FOURATT
UNITED STATES MAGISTRATE JUDGE